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OFFICE OF PETITIONS

In re Application of
Sameshima et al.
Application No. 09/459,342
Filed: December 13, 1999
Attorney Docket No. 566.3616CX1

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 21, 2003, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely reply within three months to the final Office action mailed October 21, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on January 22, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The Notice of Appeal filed May 21, 2003, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See *In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$930.00 extension of time fee submitted with the petition on May 21, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

Additionally, a review of the USPTO financial records indicates the petitioner was inadvertantly charged both the \$930.00 extension of time fee and the \$320.00 Notice of Appeal fee twice. Accordingly, an additional \$1250.00 will be credited to petitioner's deposit account as authorized.

The file is now being forwarded to Technology Center 3600 for further processing.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
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for Patent Examination Policy